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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,971	04/19/2006	Jensen Peter Akkerman	12114.0003USWO	1961
23552	7590	10/29/2007		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER LIVEDALEN, BRIAN J	
			ART UNIT 2878	PAPER NUMBER
			MAIL DATE 10/29/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/542,971	Applicant(s) AKKERMAN ET AL.	
	Examiner Brian J. Livedalen	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some    \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                         |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/16/05, 4/19/06</u> | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

Claims 1, 3-9, and 11 are pending.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: The word "radiation" is spelled incorrectly in line 4. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3, 4, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ometz et al. (4605851).

In regard to claim 1, Ometz discloses (fig. 1) a method for inspecting packagings for a liquid product including: setting a packaging (2) into rotation, irradiating (1) the packaging during the rotations with a radiation of a predetermined wavelength (column 7, lines 40-50, column 9, lines 59-61), making at least one series of at least two recordings of at least a part of the content of the packaging during rotation, with an image recording device (6) suitable for making recordings at the predetermined wavelength, wherein the packaging is situated in substantially the same rotational position relative to the recording device during successive recordings of the series (column 3, line 68 – column 4, line 19, column 7, lines 7-16, column 8, lines 48-59).

In regard to claim 3, Ometz discloses that the successive recordings of the series are made with an intervening time interval of a predetermined duration (column 8, lines 48-59).

In regard to claim 4, Ometz discloses that the rotation speed is varied during the period in which the recordings of a series are made (column 10, lines 5-12).

In regard to claim 7, Ometz discloses comparing the image information from the images of a series in order to detect the presence of undesired particles in the packaging (column 3, line 68 – column 4, line 19, column 7, lines 7-16, column 8, lines 48-59).

In regard to claim 8, Ometz discloses the image recording device being a camera activated to make a recording signal supplied from outside the camera (column 7, line 67 – column 8, line 35).

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Manique et al. (5523560).

In regard to claim 1, Manique discloses (fig. 7A) a method for inspecting packagings for a liquid product including: setting a packaging (10) into rotation, irradiating (614) the packaging during the rotations with a radiation of a predetermined wavelength (column 11, lines 29-50), making at least one series of at least two recordings of at least a part of the content of the packaging during rotation, with an image recording device (632) suitable for making recordings at the predetermined wavelength, wherein the packaging is situated in substantially the same rotational position relative to the recording device during successive recordings of the series (column 4, lines 1-28).

In regard to claim 6, Manique discloses that a plurality of series of recordings are made wherein recordings of the same rank from different series are made successively (column 4, lines 1-28).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ometz et al. (4605851) as applied to claim 1, and in view of Ishikawa (5072108).

In regard to claim 6, Ometz discloses an inspection method as set forth above. Ometz fails to disclose varying the direction of rotation. However, Ishikawa discloses an inspection system that rotates a packaging in two directions (abstract). It would have been obvious to one of ordinary skill in the art to vary the direction of rotation in Omets as taught by Ishikawa, in order to more accurately detect foreign particles (abstract).

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ometz et al. (4605851) as applied to claim 1, and in view of Katane et al. (2003/0063281).

In regard to claim 9 and 11, Ometz discloses a rotator for rotating the packaging, a radiating means for irradiating the package with radiation of a predetermined wavelength, and an image recording device suitable for making recordings at the predetermined wavelength for making at least one series of at least two recordings of at

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least a part of the content of the packaging during the rotation (column 8, lines 20-27). Ometz discloses making successive recordings at the same orientation but remains silent regarding a position-determining means for determining the rotational position of the packaging. Katane discloses (fig. 1) a packaging inspection apparatus with position-determining means (9) (page 2, paragraph 0023). It would have been obvious to one of ordinary skill in the art to incorporate a position-determining means in Ometz as taught by Katane, to more accurately control the rotation of the packaging.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Livedalen whose telephone number is (571) 272-2715. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bjl



Davienne Monbleau

Primary Examiner